

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 75

[Docket No. LS-94-011]

RIN 0581-AB35

Increase Seed Inspection Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to increase the applicable fees for testing seed under the voluntary seed inspection and certification program. The fees which will be paid by the users of the service are intended to generate sufficient revenue to offset the costs of operating the program.

DATES: Written comments must be received by February 3, 1995.

ADDRESSES: Send written comments in duplicate to James P. Triplitt, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, Building 506, BARC-E, Beltsville, Maryland 20705. Comments should reference Docket No. LS-94-011. Comments received will be made available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: James P. Triplitt, Chief, Seed Regulatory and Testing Branch, 301-504-9430.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

The proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. The rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative

procedures which must be exhausted prior to judicial challenge to the provision of this rule.

This action was also reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Administrator of AMS has determined that this action will not have a substantial economic impact on a significant number of small entities. Although some seed growers and shippers using this service may be classified as small entities, the effect of the increased fees will be minimal. Under the proposal the cost for a typical test will increase from about \$57.00 to approximately \$64.50. It is estimated that the total revenue generated by this increase will be approximately \$15,000 annually.

Background

This proposed rule is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 USC 1621 *et seq.* Section 203(h) of the AMA authorizes the Secretary to inspect and certify the quality of agricultural products and collect such fees as reasonable to cover the cost of service rendered. This revision is to increase the fees to be charged for the inspection and certification of quality of agricultural and vegetable seeds to reflect the Department's cost of operating the program.

The purpose of the voluntary program is to promote efficient, orderly marketing of seeds, and assist in the development of new and expanding markets. Under the program samples of agricultural and vegetable seeds submitted are tested for factors such as purity and germination at the request of the applicant for the service. In addition, grain samples, submitted at the applicant's request, by the Grain Inspection, Packers and Stockyards Administration are examined for the presence of certain weed and crop seed. A Federal Seed Analysis Certificate is issued giving the test results. Of 1650 samples tested in fiscal year 1994 most represented seed or grain scheduled for export. Many importing countries require a Federal Seed Analysis Certificate on United States seed.

After reviewing the current costs the department has determined that the present fee is insufficient to cover the department's cost of operation. The fee increase is necessary to offset increased salaries and fringe benefits to personnel, as well as increases in rent and other

costs of operating the program. Based on the Agency's analysis of the increased costs, AMS is proposing to increase the hourly rate for voluntary service from \$35.40 to \$40.40 per hour. In addition, the cost of issuing additional duplicate original certificates will be increased from \$8.85 to \$10.10. Approximately one-fourth hour is required to issue additional duplicate certificates.

List of Subjects in 7 CFR Part 75

Administrative practice and procedure, Agricultural commodities, Reporting and record keeping requirements, Seeds, Vegetables.

For reasons set forth in the preamble, it is proposed that 7 CFR Part 75 be amended as follows:

PART 75—REGULATIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS.

1. The authority citation for Part 75 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, and 1090, as amended (7 U.S.C. 1622 and 1624).

§ 75.41 [Amended]

2. § 75.41 is amended by removing "\$35.40" and adding in its place "\$40.40".

§ 75.47 [Amended]

3. § 75.47 is amended by removing "\$8.85" and adding in its place "\$10.10".

Dated: December 28, 1994.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 95-153 Filed 1-3-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 1050

[DA-95-09]

Milk in the Central Illinois Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend the aggregate limits on the amount of producer milk that may be diverted

from a pool plant under the Central Illinois Federal milk marketing order for an indefinite period beginning with the month of January 1995. The proposal was submitted by Prairie Farms Dairy, Inc., and Associated Milk Producers, Inc. Both cooperatives contend the suspension is necessary to ensure that producers historically associated with the market will continue to have their milk pooled under the order without having to move milk uneconomically.

DATES: Comments are due no later than January 11, 1995.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is

afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Central Illinois marketing area is being considered for an indefinite period commencing on January 1, 1995:

In § 1050.13(d)(2), the words “: *Provided*, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk and the milk of other producers that is diverted pursuant to paragraph (d)(3) of this section”.

All persons desiring to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would suspend the aggregate limit on the amount of milk that may be diverted from a pool plant during the months of August through April. At the present time, for each day's production of a producer's milk that is delivered to a pool plant during these months, another day's production may be diverted to a nonpool plant. However, in addition to this individual producer limit, there is an aggregate limit of 35 percent that applies to the total amount of milk that a pool plant operator may divert during the month. The language proposed to be suspended would remove this 35

percent aggregate limit, effectively increasing the aggregate limit to 50 percent of a pool plant operator's total producer receipts during the month.

In their letter requesting the suspension, Prairie Farms Dairy, Inc. (Prairie Farms) and the Morning Glory Farms region of Associated Milk Producers, Inc. (AMPI), explained that Prairie Farms now operates the only distributing plant under the Central Illinois order (Order 50) and that both cooperatives supply milk to this plant, which is located in Peoria. For several reasons, including the availability of abundant quantities of good quality feed, milk production is up substantially in recent months compared to the same period of last year. This has resulted in both cooperatives having to divert additional milk to nearby unregulated manufacturing plants on weekends, holidays, and other days when the Peoria plant is not in operation.

Prairie Farms and AMPI state that the proposed suspension would allow them to continue to balance the supply of milk needed at the Peoria plant while, at the same time, eliminating the need to haul milk in and out of the plant merely to keep their milk pooled under the order.

Accordingly, it may be appropriate to suspend the aforesaid provision for an indefinite period commencing on January 1, 1995.

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

The authority citation for 7 CFR Part 1050 continues to read as follows:

Authority: Secs. 1-19, 48 Stat 31, as amended; 7 U.S.C. 601-674.

Dated: December 28, 1994.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 95-154 Filed 1-3-95; 8:45 am]

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7 CFR Part 1280

[No. LS-94-014]

Sheep Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service; USDA.

ACTION: Notice: Invitation to submit proposals.

SUMMARY: Interested parties are invited to submit proposals for a sheep and wool promotion, research, education, and information order, or parts of an order as provided for by the Sheep